IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 129 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX
Versus
BHADRA SHAHIBAG HOUSE

Appearance:
1. INCOME TAX REFERENCE No. 129 of 1987
MR MR BHATT for Applicant.
MR RK PATEL for Respondent-assessee.

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 06/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The Income Tax Appellate Tribunal, Ahmedabad Bench 'C' has referred the following question for our

opinion:

"Whether, the Appellate Tribunal has not erred in law and on facts in confirming the order made by the Appellate Assistant Commissioner in granting the registration to the firm when the trustees of the trusts joined as partners though there was no specific provision in the trust deeds authorising the trustees to become partners in the firm ?"

2 The assessee is a partnership firm and the registration was refused by the Income Tax Officer for assessment year 1977-78 following the order for earlier year i.e. A.Y.1976-77. On the basis of his finding for assessment year 1976-77 the C.I.T.(Appeals) allowed the assessee's appeal by relying upon the case of another firm M/s.Jasud. The revenue's appeals before the Tribunal were disposed of by the Tribunal by following a case of one M/s.Swashraya.

3 When the matter was taken up for hearing neither Mr.M.R.Bhatt appearing for the Revenue nor Mr.R.K.Patel appearing for the respondent-assessee were in a position to state as to what has happened either in the earlier year in case of the assessee or in case which was referred to by the appellate authorities.

4 In view of these circumstances, in absence of relevant details we decline to answer the question referred to us.

5 The Reference stands disposed of accordingly with no order as to costs.

(M.S.Shah,J) (D.A.Mehta,J)

m.m.bhatt